



Case 6741

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of :
B. J. ROSELLE ET AL. :
Serial No. 09/446,202 : Group Art Unit 1761
Filed December 16, 1999 : Examiner H. Pratt
For MICROORGANISM :
REDUCTION METHODS AND
COMPOSITIONS FOR FOOD

RESPONSE

Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

In response to the Office Action dated October 11, 2000 (Paper No. 4), please consider the following remarks and attached Declaration under 35 U.S.C. § 1.132.

REMARKS

Claims 1-21 are in the application.

Rejection under 35 U.S.C. § 103

Claims 1-21 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Roselle, WO 97/15202. Applicants respectfully traverse this rejection. Roselle discloses a method for cleaning produce, especially fruits and vegetables, using a composition comprising: (a) toxicologically acceptable basic carbonate buffer at a level to provide from about 1% to about 10% by weight of carbonate ion; (b) aqueous carrier; and (c) optional ingredients; wherein the composition has a pH of 9.5 or greater.

WO 97/15202 has an International Publication Date of May 1, 1997, its effective date as a reference. The present application has a priority date of June 26, 1997. Thus, WO 97/15202 is available to serve as a reference under 35 U.S.C. § 102(a) to support a *prima facie* obviousness rejection under 35 U.S.C. § 103(a), since its publication date occurred before the earliest priority date of the present application.

However, Applicants have attached hereto a Declaration under 37 C.F.R. § 1.132 by Mr. Brian J. Roselle, one of the three inventors of the present invention, which shows that any subject matter disclosed in WO 97/15202 that is relevant to the present invention

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was conceived or invented by Mr. Roselle and is a part of his contribution to the present invention. Therefore, Applicants now believe that this reference is no longer applicable, in accordance with MPEP § 716.10 (7th ed. 1998).

As a result, Applicants believe that Claims 1-21 are now allowable.

Information Disclosure Statement

Applicants submitted an Information Disclosure Statement ("IDS") dated July 17, 2000, received by the USPTO on July 19, 2000. Copies of the documents cited in the IDS were also submitted. Applicants have attached hereto a copy of the IDS, PTO-1449, and Return Postcard submitted on July 17, 2000. Applicants respectfully request the Examiner to consider the documents cited therein.

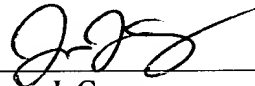
CONCLUSION

In view of the foregoing amendments and accompanying remarks, reconsideration of the application and allowance of all claims are respectfully requested.

Respectfully submitted,

B. J. ROSELLE ET AL.

By



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January 11, 2001
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